



KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 11-101	PAGE NUMBER 1 of 10
		SUBJECT: DECISION MAKING: Offender Privileges and Incentives	
Approved By:  Secretary of Corrections		Original Date Issued:	01-01-96
		Current Amendment Effective:	12-10-10
		Replaces Amendment Issued:	09-27-10

POLICY

The Kansas Department of Corrections shall implement a comprehensive system of earnable offender privileges, which will provide an effective means of managing the offender population and reinforcing constructive behavioral changes in offenders. (ACI 3-4407)

DEFINITIONS

Exempt Canteen/Property Items: Any non-consumable item with a canteen price of more than fifteen dollars [\$15.00]. Regardless of price, athletic shorts, sweat shirts, personal fans, and sweat pants are exempt. The term "canteen price" has the meaning ascribed to it within the context of IMPP 12-120.

Post-Incarceration Supervision: The supervision of offenders for any type of release from a KDOC facility, to include release to parole, conditional release, and post-release supervision.

Post Intake: Property upon completion of Intake Level, items of personal property possessed in accordance with the specifications, quantity limits, and value limits set out in IMPP 12-120.

Self-help program or activity: Those programs and activities listed in Attachment A of this IMPP.

PROCEDURES

I. Earnable Privileges (ACI 3-4407)

- A. The following earnable privileges are included in the Offender Privileges and Incentive Level System:
1. Audio-Visual Equipment;
 2. Handicrafts;
 3. Participation in organizations and formalized activities, except as indicated below;
 - a. The offender's incentive level status shall not be used as a factor in consideration of placement into a formalized education or treatment program or service or participation in the self-help program or activities identified in Attachment A.
 4. Use of outside funds;

5. Canteen expenditures;
6. Property;
7. Incentive Pay; and,
8. Visitation.

II. Incentive Levels

- A. Earnable privileges shall be grouped into four (4) levels for incarcerated offenders. These levels are: (ACI 3-4407)
 1. Intake Level;
 2. Level I;
 3. Level II; and,
 4. Level III.
- B. Offenders on post-incarceration supervision shall not be subject to the Offender Privileges and Incentive Level System.
- C. Except as provided below, earnable privileges for Intake Level through Level III shall be administered in accordance with Attachment A. (ACI 3-4407)
 1. Inmates participating in a KDOC work release program for reintegration at Wichita Work Release Facility (WWRF), Ellsworth Correctional Facility (ECF), Larned Correctional Mental Health Facility (LCMHF), Topeka Correctional Facility (TCF), or Hutchinson Correctional Facility (HCF) Work Release Unit shall be eligible to earn privileges in accordance with applicable general orders.
 2. Inmates participating in the mental health programs at LCMHF, the maximum female unit at TCF, or the Mental Health Transition Unit at LCF-CU shall be eligible to earn privileges in accordance with applicable general orders.
 - a. Prior to release or transfer to a general population living area, the inmate shall be assigned to an incentive level which most approximates the MH incentive level to which he or she was assigned immediately prior to transfer or release.
 - b. The inmate shall remain on the assigned incentive level until an increase or decrease is necessary based on behavior that occurred subsequent to the inmates release from the mental health unit or facility.
 3. Inmates participating in a Therapeutic Community Program shall be eligible to earn privileges in accordance with their program level.
 4. Inmates released from Larned State Security Hospital (LSSH) after receiving mental health treatment shall have their incentive levels determined by the unit team upon their return to a KDOC facility.
 - a. When computing the proper incentive level, the unit team shall give the inmate credit for time served if the inmate has completed the treatment program.

5. Parolees participating in a KDOC pre-revocation program shall be eligible to earn privileges in accordance with applicable general orders.
 6. Inmates returned to Kansas who were incarcerated in another State as a Kansas compact inmate, inmates received in Kansas as interstate compact inmates who were initially sentenced and housed in another state, or *in absentia* inmate immediately prior to their return to Kansas for incarceration, shall be assigned the appropriate incentive level based upon their behavior while incarcerated in the other State. In example, if the inmate demonstrated appropriate and responsible behavior for 8 months prior to his/her return to Kansas, he/she would be awarded Level III privileges upon transfer from an RDU.
 7. Time spent while out to court shall not be included in the advancement of an inmate's incentive level.
 - a. Upon an inmate's return from court to KDOC custody he/she shall be reassigned to the incentive level he/she was assigned at the time of the release to court. The date for advancement, as applicable, shall be adjusted by the number of days the inmate was out of the Department's custody.
- D. For purposes of determining an inmate's incentive level, summary judgments pursuant to K.A.R. 44-13-201b shall be considered the same as a guilty finding in a disciplinary case.

III. Progression Through Levels

A. Intake Level

1. Upon admission to the Department at an intake facility, offenders shall be assigned to the Intake Level.
 - a. Included are inmates returned to Kansas as a violator after having served time in another State or jurisdiction.
2. While at the Intake Level, inmates are limited to up to \$10.00 per pay period in canteen expenditures for those items identified in section V.B.1.a. of this IMPP.
3. Except as provided in section III.A.3.c. below, completion of the assessment and evaluation process at the intake facility and transfer to a facility for housing shall be considered successful completion of the Intake Level.
 - a. Offenders transferred to a facility for housing after refusing to complete the assessment and evaluation process shall remain at the Intake Level until completion of the assessment and evaluation process.
 - b. Except as provided in Section (1) below, in order to be promoted to Level I, offenders convicted of a class I or class II disciplinary offenses while at the intake facility must remain disciplinary conviction free through the first 120 day period subsequent to placement in a facility for the housing of general population inmates.
 - (1) Inmates housed at an intake facility convicted of a class I or class II disciplinary who have completed all phases of the evaluation process shall be assigned to incentive level I privileges upon transfer to general population facility in accordance with other provisions of this policy.
 - (i) Intake facility staff shall create a chrono entry that states if the disciplinary offense occurred prior to or subsequent to the completion of the evaluation process.

(2) Subsequent Class I or II disciplinary convictions received while assigned to Intake Level shall result in extending the Intake Level 120 days from the date of violation, after conviction.

c. While housed at an RDU, all inmates shall be assigned to Intake Level.

4. Inmates assigned to Intake Level shall not be eligible to earn incentive pay.

B. Level I

1. Inmates successfully completing the assessment and evaluation process at intake facility shall be promoted to Level I upon placement at another facility.
2. To complete Level I, an inmate must remain free of class I and class II disciplinary convictions, have no pending disciplinary reports, and demonstrate a willingness to participate in recommended programs and/or work assignments for 120 consecutive days.
3. Any inmate who, after his or her most recent admission, sustains a second or subsequent return to Level I (i.e., the inmates' third or greater time on Level I), must remain free of convictions related to class I and class II disciplinary reports, and demonstrate a willingness to participate in recommended programs and/or work assignments for two hundred forty (240) days from the date of his or her last return to Level I.
4. Except as provided in Section III.A.3.c. above offenders returned to prison as violators of the conditions of supervised release, with no new sentence, shall be returned to Incentive Level I.
5. Inmates refusing to participate in or removed from work release for performance or behavioral reasons shall return to Level I for two hundred forty [240] days from the date of placement in a general population facility.

C. Level II

1. Upon successful completion of Level I, the inmate shall be promoted to Level II.
2. Requirements for successful completion of Level II are the same as for Level I, as outlined in section III.B.2. of this IMPP.

D. Level III

1. Upon successful completion of Level II, the inmate shall be promoted to Level III.
2. An inmate shall remain on Level III provided he/she does not demonstrate inappropriate behavior as outlined in section IV of this IMPP.

E. The offender shall not advance to another incentive level if the offender has a pending disciplinary action. The decision as to whether the offender moves forward or backwards, or remains stationary, on offender privileges and incentives level system shall be based upon the disposition of the disciplinary action.

1. Included are charges filed with the county district prosecutor.
2. An appeal shall not preclude movement.

IV. Reductions in Level

- A. An inmate shall be reduced one (1) incentive level for either of the following, with the understanding that any one disciplinary conviction that involves both a loss of custody and a placement to disciplinary segregation shall result in the loss of only one (1) incentive level:
1. Every two [2] disciplinary reports during a single 180 day period which result in a conviction for either a class I or class II offense. [Each additional two [2] disciplinary reports for either a class I or class II offense shall result in the loss of an additional level]; or,
 2. Any disciplinary conviction, not listed in section IV.B.4, which results in either a loss of custody or placement in disciplinary segregation.
- B. An inmate shall be automatically reduced to Level I for any of the following:
1. Termination from a work assignment for cause including:
 - a. Documented refusal to participate in work assignments or at the time of placement or upon the inmate's removal from a work assignment/program for performance considerations.
 - b. Conviction of a disciplinary infraction for termination from a work assignment due to poor work performance or refusal to work.
 - c. Behaviors occurring while on a work assignment, which result in removal. Such behaviors would include insubordination to the work supervisor, fighting on the job, interference with the official duties of the supervisor, etc.
 2. Documented refusal to participate in recommended programs at the time of placement or placement screening for the specific program or upon the inmate's removal from a program for performance considerations.
 - a. An inmate's refusal to participate in a recommended program(s) until such time that there is insufficient time remaining to complete the program prior to his/her projected release date, shall require that the inmate remain on incentive Level I until such time that he/she is released from incarceration.
 - b. If an inmate's incentive level is reduced as a result of refusing a program assignment, he or she is not eligible for an incentive level increase until they have demonstrated appropriate behavior for 120 days, including placement to, and satisfactory participation in, the program as follows:
 - (1) If the offender refuses to enter or is removed from sex offender's treatment, the offender must return to sex offender's treatment.
 - (2) If the offender refuses to enter or is removed from a primary substance abuse treatment program, the offender must return to a substance abuse treatment program that is determined to meet the offender's needs.
 - (3) If the offender refuses to enter or is removed from a vocational program, the offender must return to a vocational program approved by the offender's unit team.
 - (4) If the offender refuses to enter or is removed from an educational program, the offender must return to an approved educational program.
 - (5) If the offender refuses to enter or is removed from the pre-release program, the offender must return to an approved pre-release program.

- c. In those situations when the inmate is eligible for and pursuing program participation in good faith effort, as approved by the Program Management Committee, the inmate may begin to advance in incentive levels after 120 days if good cause is shown.
 - (1) Such advancements must be recorded on the inmate review and in the case management chronological file.
- d. An Inmate removed from a work and/or program assignment due to behaviors occurring outside of, and unrelated to, the work and/or program assignment shall be returned to Incentive Level I.
 - (1) Effective October 1, 2010, an inmate removed from a work or program assignment per Subsection IV.B.2.d., above, who meets the criteria for advancement in incentive level pursuant to Section III, **and** who has requested to be assigned to a work or program assignment, shall be eligible to advance in incentive levels.
 - (i) If the removal is from a program assignment, the inmate must have sufficient time remaining to complete the program from which he or she was removed prior to release.
- 3. Conviction of a felony charge filed with the county or district prosecutor.
- 4. Disciplinary convictions for:
 - a. Theft (KAR 44-12-203);
 - b. Being in a condition of drunkenness, intoxication, or a state of altered consciousness (KAR 44-12-311);
 - c. Except as provided in c. (1) below, the use of stimulants, sedatives, unauthorized drugs, or narcotics, or the misuse, or hoarding of authorized or prescribed medication (KAR 44-12-312);
 - (1) Convictions for possession of over the counter medications sold via the canteen (aspirin, Tylenol, ibuprofen, etc.) exceed authorized limits shall not result in the inmate's automatic reduction to Level I.
 - d. Sodomy, aggravated sodomy, or aggravated sexual act (KAR 44-12-314);
 - e. Riot or incitement to riot (KAR 44-12-319);
 - f. Arson (KAR 44-12-322);
 - g. Assault (KAR 44-12-323);
 - h. Battery (KAR 44-12-324);
 - i. Inmate Activity (limitations) (section c of KAR 44-12-325);
 - j. Sexual Activity (KAR 44-12-326);
 - k. Interference with Restraints (KAR 44-1327);
 - l. Relationships with Staff (KAR 44-12-328);

- m. Violation of statutes (44-12-1001a) if the statute is a felony crime;
 - n. Dangerous Contraband (KAR 44-12-901);
 - o. Threatening (44-12-306);
 - p. Disobeying orders (KAR 44-12-304) when the inmate's behavior is for refusal to submit to a urinalysis or any type of alcohol/drug testing;
 - q. Tobacco contraband; or,
 - r. Telephones or Other Communication Devices (KAR 44-12-211).
- C. Inmates may be placed on restriction by the disciplinary board without a level reduction. Upon serving the restriction, the offender's privileges shall be restored commensurate with his/her incentive level.
- D. Offenders returned to prison as condition violators with no new sentence shall return to Level I except as provided in section III.A.3.c. of this IMPP.
- E. Except as indicated below, property items not authorized at the incentive level to which the inmate is reduced shall be removed from the facility in accordance with the provisions of IMPP 12-120.
- 1. Exempt canteen/property items, per IMPP 12-120, which include but are not limited to sound equipment and large appliances, authorized at Incentive Level II and III shall be stored upon the offender's first return to Level I. Such items shall be removed from the facility in accordance with the provisions of IMPP 12-120 at the inmate's expense in the following situations:
 - a. The inmate is returned to Level I for a second or subsequent time within a five (5)-year time frame; or,
 - b. The inmate is returned to Level I and fails to advance to Level II at the earliest possible review or opportunity.
 - 2. Offenders reduced from Level III to Level II may retain in-cell handicraft materials and supplies purchased while on Level III.
- F. Upon an offender's return to Level I, property items allowed under the provisions of IMPP 12-120 shall be removed from the facility in accordance with established policy.
- 1. Inmates reduced to Level I shall be permitted to retain property purchased via the canteen while on Incentive Level II or Incentive Level III, including consumable items, except those items to which they gained access as a result of advancement to a higher level.
- G. If an inmate's incentive level is reduced during a payroll period, canteen expenses for the entire period shall not exceed that which is authorized by the incentive level, per IMPP 04-108, to which the inmate shall be reduced.
- 1. If at the time the inmate is reduced to a lower incentive level the inmate has already spent or exceeded the maximum amount allowed under the reduced incentive level, the inmate shall not be permitted to spend any additional funds during that payroll period.
- H. An inmate laid in for cause who refuses to participate in a work assignment shall be precluded from access to the canteen, except for purchase of approved items identified in Section V.B.1.a.

- I. Per IMPP 10-109 Section C., inmates removed from a work or program assignment for cause shall be issued a disciplinary report.

V. Inmates Confined in Administrative, or Disciplinary Segregation or Assigned Restriction

A. Administrative Segregation

1. In accordance with the provisions of KAR 44-14-306, inmates confined in administrative segregation shall be eligible, as much as possible, to earn and maintain privileges in the same amount and manner as any other inmate in the general population.

B. Disciplinary Segregation

1. Inmates confined in disciplinary segregation shall not have access to privileges, except as described below:
 - a. Canteen expenditures, as authorized by the facility warden but, if authorized by the facility warden, shall not to exceed \$10.00 per payroll period and shall be used for the purchase of the following items only.
 - (1) Shampoo and approved hair care products listed as allowable property in IMPP 12-120;
 - (2) Denture adhesive creme or powder;
 - (3) Creme or stick deodorant;
 - (4) The following writing supplies:
 - (a) Stamps (not to exceed 10);
 - (b) Writing paper (not to exceed 1 pad);
 - (c) Envelopes (not to exceed 10);
 - (d) Flexible pen;
 - (5) Chap stick and body lotion as carried in the facility canteen;
 - (6) Feminine hygiene products listed as allowable property in IMPP 12-120 (females only);
 - (7) Shower shoes;
 - (8) Legal Copy Tickets;
 - (9) Soft toothbrush;
 - (10) Toothpaste;
 - (11) Disposable razors (as permitted by facility General Order);
 - (12) Comb or pick; and,
 - (13) Soap;

- (14) One primary religious text shall be the only personal publication allowed while on disciplinary segregation status;
 - (15) Medication, restricted to over-the-counter medications as specified in the facility's General Order;
 - (16) Drinking cups, per specifications of IMPP 12-120; and,
 - (17) Personal and legal mail in accordance within the established limits of IMPP 12-120. Personal photographs shall not be permitted while on disciplinary segregation status.
- 2. No facility General Orders shall be written on the subject of access to privileges and property by inmates in disciplinary segregation except those necessary to carry out the pertinent procedures of this document.
- C. Inmates assigned to restriction shall be limited to privileges in accordance with applicable regulations.
 - 1. Canteen expenditures shall be limited to the dollar amount and items specified in section V.B.1.a. of this IMPP.

VI Disciplinary Diversion

- A. Except as provided below, if the inmate enters into a disciplinary diversion agreement pursuant to IMPP 11-119, he or she shall still be eligible to advance in incentive levels in accordance with the provisions set forth in this policy as though no incident resulting in the filing of a disciplinary charge occurred.
 - 1. If the inmate fails to complete diversion, or receives another disciplinary conviction while on diversion, the inmate's incentive level shall be modified in accordance with Procedural Section IV of this policy.

VII. Limitation on Use of Incoming and Outgoing Funds

- A. For inmates assigned to Intake Level, outgoing funds shall be limited to fees for legal services and/or postage for legal mail.
- B. Except as provided below, there shall be a \$40.00 limit on outgoing funds.
 - 1. Inmates may exceed the \$40.00 limit, if necessary, for the purchase a primary religious text if the cost of the text is greater than that amount.
 - 2. The \$40.00 limit shall not apply to payments for legal postage or to any of the following:
 - a. The court for verified restitution and/or court costs;
 - b. Verified fees payable to an attorney for legal services;
 - c. Verified child support payments;
 - d. Specialized fees, expenses as authorized by the warden or designee;
 - (1) As possible, approval for such payments shall be payable to the vendor or service provider only.
 - e. Purchases of approved handicraft materials/supplies; and

- f. Expenditures for subscriptions to magazines and newspapers and/or purchase of books.
- C. Upon recommendation of the unit team and approval of the warden or designee, offenders assigned to private industry (minimum wage) or those who receive government benefits may be authorized, on an individual basis, to send out funds in excess of \$40.00 per pay period limit.

VIII. Monitoring of Offender Incentive Level

- A. The assigned unit team counselor and the offender shall be responsible for ensuring that the incentive level entered into the computerized database reflects the offender's current status.
 - 1. Exceptions to authorized privileges and spending limits shall not be approved because the offender's Incentive level is not current.
 - a. If an offender believes his/her Incentive Level is in error, he/she shall be responsible for informing their counselor that the level is in need of change.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are considered to be compliant with all applicable Federal statutes and/or regulatory requirements. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None

REFERENCES

KAR 44-7-104, 44-12-203, 44-12-211, 44-12-311, 44-12-312, 44-12-314, 44-12-319, 4-12-322, 44-12-323, 44-12-324, 44-12-325, 44-12-326, 44-12-327, 44-12-328, 44-12-401, 44-12-4901, 44-12-1001, 44-13-201b

IMPP 04-108, 12-120
ACI 3-4407

ATTACHMENTS

Attachment A - Offender Privileges and Incentives Level System, 1 page

OFFENDER PRIVILEGES AND INCENTIVES LEVEL SYSTEM
(For All Inmates Except Those on “Exempt” Status)

LEVEL	Audio/Visual Equipment	HANDICRAFTS	ORGANIZATIONS/ FORMALIZED ACTIVITIES	LIMITATION ON OUTSIDE FUNDS	CANTEEN EXPENDITURES	PROPERTY	INCENTIVE PAY	VISITATION
INTAKE	No personal audio/visual equipment.	Not available.	Severely Limited ¹	Outgoing funds limited to purchase or subscriptions for publications including newspapers, magazines, religious texts and books, fees for legal services and/or postage for legal mail.	\$10.00/payroll period for approved hygiene items.	Intake property per IMPP 12-120 and books, magazines, and newspapers.	Not available.	No visiting, except attorneys, clergy and law enforcement
LEVEL I	No personal audio/visual equipment.	Not available.	Limited. ²	Allow outside funds; expenditures restricted to canteen and restrict outgoing funds to \$40 per pay period, except for expenditures related to the purchase of publications or subscriptions for newspapers, magazines, religious texts and books..	\$40.00/payroll period-And \$25.00 maximum per week.	Intake property per IMPP 12-120; athletic shorts, tennis shoes, work boots, hot pot, fan, alarm clock, blow dryer, extension cord, curling iron, lamp, ice chest sweat pants/tops and all consumable post-intake property per IMPP 12-120.	May earn up to current .60 per day incentive pay. (Inmates at ECF may earn .09 per hour or up to .63 per day) Inmates @ HCF eligible for KCI Clothig @ \$1.05 per day.	Attorneys, clergy, law enforcement, primary visitor, and immediate family only; ³ follow KAR 44-7-104 and IMPP 10-113.
LEVEL II	May purchase personal audio/visual equipment via canteen.	Not available except that they may retain in-cell handicraft materials and supplies purchased while on Incentive Level III.	Limited. ²	Allow outside funds; limit expenditures to canteen and restrict outgoing funds to \$40 per pay period, except for expenditures related to the purchase of publications or subscriptions for newspapers, magazines, religious texts and books.	\$110.00/payroll period and \$45.00 maximum per week; may purchase exempt canteen items additionally.	All post-intake property per IMPP 12-120.	Eligible for any incentive pay level, including Industries; Level III inmates given higher priority.	Any approved visitor; follow KAR 44-7-104 and IMPP 10-113.
LEVEL III	May purchase personal audio/visual equipment via canteen.	As allowed per IMPP 10-133.	Eligible to participate in all organizations / formalized activities.	Allow outside funds; limit expenditures to canteen and restrict outgoing funds to \$40 per pay period, except for expenditures related to the purchase of publications or subscriptions for newspapers, magazines, religious texts and books.	\$180.00/payroll period and \$50.00 maximum per week; may purchase exempt canteen items additionally.	All post-intake property per IMPP 12-120.	As per IMPP 10-109.	Any approved visitor; follow KAR 44-7-104 and IMPP 10-113.

¹ At a minimum, self-help programs and activities for inmates on Intake Level shall include the following: library services, pastoral care/religious services, and gym and yard access. Other self help programs may be designated by the facility Warden.

² At a minimum, self-help programs and activities for inmates in Level I and II shall include the following: Alcoholics Anonymous (AA), Narcotics Anonymous (NA), library services, the Victim/Offender Reconciliation Program (VORP), pastoral care/religious services, gym and yard access, DADS/WALC, M2W2, aftercare programming, and religious services in formal services/functions mandated by the religion, per IMPP 10-110. Other self help programs may be designated by the facility Warden.

³ Includes court/SRS appointed legal guardian of children.